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SC Court of Appeals

STATE OF SOUTH CAROLINA

IN THE COURT OF APPEALS

Appeal from Bamberg County

Honorable R. Scott Sprouse, Circuit Court Judge

THE STATE,

RESPONDENT,

V.

MYRON KAREEM SINGLETON,

APPELLANT.

APPELLATE CASE NO. 2024-000540

ANDERS BRIEF OF APPELLANT

SARAH E. SHIPE
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Division of Appellate Defense
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ATTORNEY FOR APPELLANT

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STATEMENT OF ISSUE ON APPEAL

Did the trial court err failing to grant a mistrial where, during closing, the solicitor made multiple improper remarks to the jury?

STATEMENT OF THE CASE

On December 12, 2022, a Bamberg County grand jury indicted appellant for assault and battery of a high and aggravated nature (ABHAN), kidnapping, and criminal sexual conduct (CSC), first degree. Indictments. On June 20-22, 2023, appellant's case was called to trial before the Honorable R. Scott Sprouse, and a jury. R. 1. Wallis Alves represented appellant. David Miller and Leigh Staggs prosecuted for the state. R. 1.

The jury found appellant was *not guilty* of kidnapping and CSC, first degree but found appellant was guilty of ABHAN. R. 241, l. 19—242, l. 5. Judge Sprouse sentenced appellant to life without the possibility of parole (LWOP). R. 273, ll. 13-21.

On June 28, 2023, defense counsel filed a motion to reconsider appellant's sentence. Motion. On March 26, 2024, a hearing on the motion was held along with a guilty plea hearing on an unrelated charge.[1] During the hearing the state consented to the motion of counsel which asserted the sentence should not be LWOP but instead be under twenty years' where the prior qualifying strike did not constitute a strike as argued by counsel in their motion. March 26, Tr. 4, ll. 1-22. The following day, March 27, 2024, Judge Sprouse issued an order granting appellant's motion to reconsider and resentencing appellant to eighteen years' imprisonment. R. 295-296.

This appeal follows.

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[1] Appellant pled guilty pursuant to *North Carolina v. Alford*, 400 U.S. 25 (1970), to ABHAN for a negotiated sentence of eighteen years' imprisonment. R. 281-289.

STANDARD OF REVIEW

A trial judge's decision denying a mistrial will be reversed on appeal if the denial amounts to an abuse of discretion. *State v. Rowlands*, 343 S.C. 454, 458, 539 S.E.2d 717, 719 (Ct. App. 2000). "Whether a mistrial is manifestly necessary is a fact specific inquiry. It is not a mechanically applied standard, but rather is a determination that must be made in the context of the specific difficulty facing the trial judge." *Id.* at 457–58, 539 S.E.2d at 719 (internal quotations and citations omitted).

ARGUMENT

The trial court erred failing to grant a mistrial where, during closing, the solicitor made multiple improper remarks to the jury.

Introductory facts

At trial the state alleged appellant picked up, then girlfriend, T.W., on February 3, 2022, and brought her to his home where he proceeded to physically and sexually assualt her for two days before she escaped. According to T.W. on February 5, appellant left with a friend and T.W. testified she left and called her mother pick her up. R. 74-78. T.W., her mother, and her good friend all testified at appellant's trial. Additionally, Conita Hill, a physician's assistant, and Angela Zeigler, a sexual assualt nurse examiner, testified for the state.

Appellant contended he did not see T.W. until February 4, and she was already beat up and complained of cramps. R. 150, ll. 8-25; 153, ll. 7-21. He said she wanted to be at his house and was hiding out from her mother and her ex-boyfriend. R. 156, ll. 3-9. He denied all allegations that he physically harmed her or sexually assaulted her, explaining they had consensual sex. R. 154, l. 10—155, l. 22; 163, l. 12—164, l. 6. Appellant only found out about these charges when T.W. requested they meet, and she told him. R. 161, l. 10—162, l. 18. Appellant turned himself in to law enforcement. R. 166, ll. 2-4.

The state put forth no testimony of law enforcement as it appeared—and the solicitor admitted—no investigation was conducted in this case. June, Tr. 212, ll. 8-25. The solicitor and defense counsel both agreed in closing this case came down to credibility of T.W. versus appellant. R. 210, ll. 19-21; 212, l. 25—213, l. 3.

Relevant facts

During closing the solicitor made the following improper remarks to the jury:

> That's your job as jurors, to determine what is true and what is not true. Verdicto is a Latin term. It means to speak the truth. That's what a verdict is. A verdict is the truth.

R. 213, ll. 11-14.

. . .

> It's somebody who's in jail on child support. And child support means you stay in jail for a certain amount of time or you get caught up on your child support and they let you out. That's who came in. And they had never talked to him until a couple weeks before the trial. Pretty fortunate. He wasn't on the list to testify before

. . .

> He said that he got served with a subpoena by Investigator Martin a couple of weeks before this trial and he had never spoken to him before that. And in fact, he said that when Investigator Martin came to speak to him the first time, the very first time, he had a subpoena for him. He handed him the subpoena before he talked to him.

R. 216, ll. 6-21.

. . .

> Ms. Williams was upset about her daughter. She was the first witness in the case. She was upset about her daughter. Her daughter is not capable of making good decisions for herself. They know that. They have to keep an eye on her. That's why -- what 22-year-old needs permission from their parents to leave the house? The reason she needs permission from her parents to leave the house is because when she does stuff -- when she leaves the house without her parents' permission, she ends up looking like she looks in those pictures over there. That's what they were trying to protect her from. That's what they're still trying to protect her from. That's why they keep such a tight rein on her. Because they need to. And yes, a mother is a mother until the day she dies if she has a child, but this ain't that. They're still taking care of her.

R. 219, ll. 10-25.

After each instance defense counsel objected. R. 213, ll. 15-17; 216, ll. 13-15. However, after the last remark defense counsel objected *and* moved for a mistrial. R. 220, ll. 6-7. Counsel

asserted the solicitor repeatedly referenced T.W. as a mental health patient and mentally deficient although there was no evidence presented to the jury of this alleged mental health problem. Defense counsel argued this baseless assertion by the state was "highly prejudicial" and could not be overcome where the state continuously referred to T.W. as someone that needed special care. R. 220, l. 6—221, l. 25.

The solicitor countered that he was merely referencing T.W.'s demeanor on the stand and referencing impressions the jury might logically draw from her demeanor. "It's not because of the fact that she's got some sub 70 I.Q. It's that they can see who [T.W.] is." R. 222, ll. 2-8.

The court denied defense counsel's motion. The court found appellant's own testimony referred to T.W. as having been institutionalized and further there was much testimony regarding T.W.'s parents involvement in her life and "[t]his goes directly to the issue of credibility." R. 222, ll. 9-16.

Defense counsel also put on the record earlier discussions at sidebar regarding her first two objections during the solicitor's closing. Counsel's first objection was regarding the solicitor's remark to the jury about "finding truth," and the second was the solicitor's improper reference to the defense's witness list that was not part of the earlier objected to testimony of defense witness Matthew Wilson. R. 222, l. 17—223, l. 13.

Discussion

"The decision to grant or deny a mistrial is within the sound discretion of the trial court. The trial court's decision will not be overturned on appeal absent an abuse of discretion amounting to an error of law." *State v. Harris*, 382 S.C. 107, 117, 674 S.E.2d 532, 537 (Ct. App. 2009) (internal citations omitted). A mistrial should only be granted when absolutely necessary, and a defendant must show both error and prejudice in order to be entitled to a mistrial. *Id.*

"Insubstantial errors that do not impact the result of the case do not warrant a mistrial when guilt is conclusively proven by competent evidence." *State v. White*, 371 S.C. 439, 447–48, 639 S.E.2d 160, 164 (Ct. App. 2006) (emphasis added). "The determination of prejudice must be based on the entire record and the result will generally turn on the facts of each case." *Id.* at 447, 639 S.E.2d at 164.

In *State v. Rowlands*, this Court held that double jeopardy barred prosecution for driving under the influence after an improvidently granted mistrial. 343 S.C. 454, 539 S.E.2d 717 (Ct. App. 2000). In that case the state appealed the lower court's grant of a mistrial. *Id.* In that case this Court reasoned, "[w]hether a mistrial is manifestly necessary is a fact specific inquiry. 'It is not a mechanically applied standard, but rather is a determination that must be made in the context of the specific difficulty facing the trial judge.' A trial judge's decision to grant or deny a mistrial will not be reversed on appeal absent an abuse of discretion amounting to an error of law." *Id.* at 457–58, 539 S.E.2d at 719 (Ct. App. 2000) (internal citations omitted).

In *State v. Harris*, this Court held that the state's eliciting improper character testimony from a witness did not warrant a mistrial where the state asked a defense witness whether Harris had ever hit him in Harris's trial on the charge of murder and assault and battery with intent to kill. *Harris*, 382 S.C. at 11, 674 S.E.2d at 538. In that case, the Court found that the court's instruction to the jury to disregard the question cured any alleged error. *Id.* at 119-20, 647 S.E.2d at 538.

In *State v. Wilson*, this Court held the trial court's error in admitting evidence of a prior incident of domestic violence between Wilson and the victim did not prejudice Wilson. 389 S.C. 579, 698 S.E.2d 862 (Ct. App. 2010). In that case, the Court was unable to find any prejudice in the limited record before it.

In this case, the record shows the state's case was solely based on credibility, which made these objectionable remarks unduly prejudicial. As the solicitor admitted there was no meaningful investigation in this case it came down to whether the jury believed T.W. or appellant. The solicitor repeatedly making improper and prejudicial remarks throughout closing should have resulted in a mistrial.

CONCLUSION

By reason of the foregoing argument, appellant requests this Court reverse his convictions and remand his case for a new trial.

Sarah E. Shipe
Appellate Defender

ATTORNEY FOR APPELLANT

This 23rd day of April, 2025.

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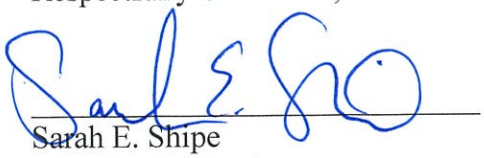
PETITION TO BE RELIEVED AS COUNSEL

Counsel for Myron Kareem Singleton states:

1. She is Appellate Defender for the South Carolina Office of Appellate Defense, and was appointed to represent appellant.
2. She has reviewed the record of appellant's trial before Judge R. Scott Sprouse, which was held on June 19-22 & March 26, 2024, and, in her opinion, the appeal is without legal merit sufficient to warrant a new trial.
3. She has, pursuant to Anders v. California, 386 U.S. 738, 87 S. Ct. 1396 (1967), briefed an arguable legal issue which arose during the course of the trial.

Wherefore, she asks the Court to relieve her as counsel for Myron Kareem Singleton.

Respectfully Submitted,



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DESIGNATION OF MATTER TO BE INCLUDED IN RECORD ON APPEAL

Appellant proposes the following be included in the Record on Appeal:

(1) True-billed indictments: 2022-GS-05-00151; 2022-GS-05-00154; 2022-GS-05-00155; 2024-GS-05-00061;
(2) Trial transcript dated June 20-22, 2023;
(3) Court's Exhibit No. 1 (Jury Question);
(4) Motion to Reconsider Sentence;
(5) Transcript of March 26, 2024 Plea and Resentencing Hearing;
(6) Order Granting Motion to Reconsider Sentence;
(7) Sentence Sheets

I certify that this designation contains no matter which is irrelevant to this appeal.

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CERTIFICATE OF COUNSEL

The undersigned certifies that to the best of my ability this Anders Brief of Appellant complies with Rule 211(b), SCACR, and the April 15, 2014, order from the South Carolina Supreme Court entitled "Revised Order Concerning Personal Identifying Information and Other Sensitive Information in Appellate Court Filings."

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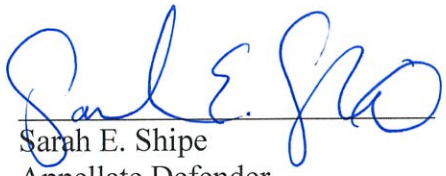
CERTIFICATE OF SERVICE

Pursuant to Rule 262(a)(3) and Rule 262(c)(3), SCACR, the undersigned hereby certifies a true copy of the Anders Brief of Appellant and Designation of Matter in the above-referenced case has been served upon Mark Farthing, Esquire, at the primary e-mail address listed in the Attorney Information System (AIS); and on Myron Kareem Singleton, #318076, at Lieber Correctional Institution, PO Box 205, Ridgeville, SC 29472, this 23rd day of April, 2025.



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